

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

| | | |
|---------------------------------|---|--------------------------|
| PURDUE PHARMA L.P., |) | |
| PURDUE PHARMACEUTICALS L.P., |) | |
| and RHODES TECHNOLOGIES, |) | |
| |) | |
| Plaintiffs, |) | C.A. No. 15-cv-13099-FDS |
| v. |) | (Lead Docket No.) |
| |) | |
| COLLEGIUM PHARMACEUTICAL, INC., |) | |
| |) | |
| Defendant. |) | |
| |) | |

STIPULATION AND ~~PROPOSED~~ ORDER

WHEREAS Plaintiffs Purdue Pharma, L.P., Purdue Pharmaceuticals L.P. (collectively, "Purdue"), and Rhodes Technologies (collectively, "Plaintiffs") have asserted infringement of U.S. Patent Nos. 9,073,933 (the "'933 patent"); 9,522,919 (the "'919 patent"); 10,407,434 (the "'434 patent"); and 9,693,961 (the "'961 patent") (collectively, the "patents in suit") against Defendant Collegium Pharmaceutical, Inc. ("Defendant") in the above-referenced litigation;

WHEREAS on April 1, 2021, the Court entered a Scheduling Order in the above-referenced litigation through the close of expert discovery (Dkt. 253);

WHEREAS Defendant has filed a pending post-grant review proceeding PGR2018-00048 before the Patent Trial and Appeal Board (the "PTAB") against Purdue's '961 patent, and Purdue filed a pending motion to terminate (PGR2018-00048, Paper 48);

WHEREAS on October 8, 2021, in an email to counsel for the parties, the PTAB stated that "the Board expects to issue a paper in this proceeding within the next month";

WHEREAS on September 15, 2019, Plaintiffs and their debtor affiliates each

commenced a voluntary bankruptcy case under chapter 11 of title 11 of the United States Code (11 U.S.C. § 101 et seq.) in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) (the “Purdue Bankruptcy Proceedings,” Lead Case No. 19-bk-23649);

WHEREAS on September 17, 2021, the Bankruptcy Court approved the Twelfth Amended Joint Chapter 11 Plan of Reorganization of Purdue Pharma L.P. and its Affiliated Debtors (the “Plan of Reorganization”) (19-bk-23649, Dkt. 3786; 3787);

WHEREAS the Bankruptcy Court’s order approving the Plan of Reorganization was appealed to the U.S. District Court for the Southern District of New York (Lead Case No. 21-cv-07532), and the U.S. District Court scheduled oral argument on that appeal for November 30, 2021 (21-cv-07532, Dkt. 55);

WHEREAS Plaintiffs and Defendant agree that their best expectation is that Knoa Pharma LLC, the new company that will emerge under the Plan of Reorganization, will be in existence as early as January 31, 2022;

WHEREAS Plaintiffs and Defendant agree to temporarily suspend all litigation activity in this action (except as discussed in Paragraph 2 below) until January 31, 2022;

IT IS HEREBY STIPULATED AND AGREED by the parties, subject to the approval of the Court:

1. The existing Scheduling Order deadlines are amended as follows:

| Event | Original Deadline | Amended Deadline |
|--------------------------------------|-------------------|------------------|
| Close of Fact Discovery | March 11, 2022 | June 3, 2022 |
| Parties' Opening Expert Disclosures | March 25, 2022 | June 17, 2022 |
| Parties' Rebuttal Expert Disclosures | April 25, 2022 | July 19, 2022 |
| Deposition of Parties' Trial Experts | May 27, 2022 | August 19, 2022 |

2. Plaintiffs and Defendant agree this stipulation and proposed order has no impact on non-party discovery.

3. Plaintiffs and Defendant agree this stipulation and proposed order will not be used to argue for further suspensions of the case schedule.

4. Plaintiffs and Defendant agree this stipulation and proposed order will not be used to argue for or against any requests for injunctive relief.

AGREED AND STIPULATED TO:

Date: November 16, 2021

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SO ORDERED this 17th day of November, 2021.



Hon. F. Dennis Saylor IV
United States District Judge